

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

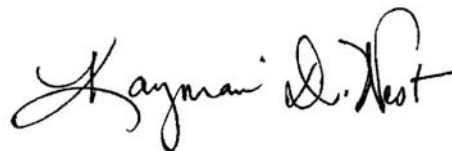
Dmitry Pronin, 382245,)	C/A No. 5:12-cv-03416-DCN-KDW
)	
Plaintiff,)	
)	
vs.)	
)	REPORT AND RECOMMENDATION
Lieutenant Troy Johnson; Operations)	
Lieutenant Eda Olivera-Negron; Kenneth)	
Atkinson; Daniel Fallen; Rex Blocker;)	
Louisa Fuertes-Rasario; Sandra K.)	
Lathrop; Jake Burkett; Brandon Burkett;)	
John Bryant; Patina Walton-Grier; Henri)	
Wall; Edward Hampton; William Johnson;)	
Officer Flournoy; Officer Middlebrook;)	
Officer Wilson; and Officer Crawford,)	
)	
)	
Defendants.)	

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. This matter is before the court on Plaintiff's Motion for Entry of Default filed on June 2, 2014. ECF No. 115. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983, and submit findings and recommendations to the District Court.

Plaintiff's Motion asks the court to enter judgment against Defendants contending that Defendants did not timely respond to his Complaint because on June 2, 2014, four full days had elapsed since Defendants were instructed to respond to Plaintiff's Complaint. ECF No. 115. Defendants oppose this Motion contending that they "filed their Motion for Summary Judgment on May 27, 2014, and a copy was mailed to Plaintiff." ECF No. 118.

Rule 55(a) of the Federal Rules of Civil Procedure provides that “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a). The undersigned has reviewed the docket and finds that Defendants adequately and timely responded to Plaintiff’s Second Amended Complaint. Rule 12 of the Federal Rules of Civil Procedure requires a party file a responsive pleading in the form of an answer or a 12(b) motion. Though captioned as “Motion for Summary Judgment,” Defendants’ Motion was filed “pursuant to Fed. R. Civ. P. 12(b)(1), (b)(2), and (b)(6).” ECF No. 108 at 1. Therefore, Defendants have satisfied Rule 12 requirements. Accordingly, it is recommended that Plaintiff’s Motion for Entry of Default, ECF No. 115, be denied. As set forth in the court’s May 29, 2014 order, Plaintiff’s deadline to respond to Defendants’ Motion for Summary Judgment is held in abeyance until after the close of discovery on July 18, 2014. *See* ECF Nos. 111, 112.

IT IS SO RECOMMENDED.

A handwritten signature in black ink, reading "Kaymani D. West". The signature is fluid and cursive, with the first name "Kaymani" being more prominent and the last name "West" following in a similar style.

June 26, 2014
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge